

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SPB 7092

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Implementing the 2014-2015 General Appropriations Act

DATE: March 27, 2014

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McSwain</u>	<u>Kynoch</u>	_____	<b>AP Submitted as Committee Bill</b>

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**I. Summary:**

SPB 7092 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2014-2015. Statutory changes are temporary and expire on July 1, 2015.

**II. Present Situation:**

Article III, section 12 of the Florida Constitution provides that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.” This language has been interpreted to defeat proviso language attached to appropriations that have the effect of changing general law.<sup>1</sup> For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the general appropriations act. The statutory changes are effective only for one year and either expire on July 1 of the next fiscal year or the language of the amended statute reverts that which existed before the changes made by the bill.

**III. Effect of Proposed Changes:**

**Section 1** provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2014-2015.

**Section 2** incorporates the Florida Education Finance Program (FEFP) work papers by reference for the purpose of displaying the calculations used by the Legislature.

**Section 3** provides that funds provided for instructional materials shall be released and expended as required in the proviso language attached to Specific Appropriation 96.

**Sections 4 and 5** amend s.1011.62(1)(f), (9)(a) and (c), and (11), F.S., to expand the requirement of providing an additional hour of intensive reading instruction daily to students enrolled in the

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<sup>1</sup> *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

300 lowest performing elementary schools and suspend the Virtual Education Contribution allocation for the 2014-2105 fiscal year.

**Sections 6 and 7** amends s. 1002.32(9)(a), F.S., to require all lab schools with permanent high school centers in operation prior to September 1, 2013, receive their proportional share of sparsity supplement funds.

**Section 7** specifies that the amendments to s. 1002.32(9)(a), F.S., expire July 1, 2015, and the text of that paragraph shall revert to that in existence on June 30, 2014.

**Section 8** amends s.1013.64(1)(a), F.S., to provide that funds appropriated for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities be prorated based on each school district's share of the 2013-2014 reported fixed capital outlay FTE.

**Section 9** incorporates by reference document entitled "Medicaid Hospital Funding Programs" for the purpose of displaying the calculations used by the Legislature in making appropriations for the Low-Income Pool, Disproportionate Share Hospital, and Hospital Exemptions Programs.

**Section 10** provides requirements to govern the continuation of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study and prohibits state agencies from implementing regulations with higher standards than those currently in place until the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study is completed.

**Section 11** provides the order that the Agency for Persons with Disabilities will use to transition individuals from the Wait List to the Home and Community Based Services Waiver.

**Section 12** requires the Department of Children and Families to amend its contracts with each managing entity, as necessary, to remove any contractual provisions that have the effect of requiring a managing entity to conduct a provider network procurement during the 2014-2015 fiscal year.

**Section 13** amends s. 216.262, F.S., to allow the Department of Corrections (DOC) to request additional positions and appropriations from unallocated general revenue during the 2014-2015 fiscal year, if the actual inmate population of the DOC exceeds certain Criminal Justice Estimating Conference forecasts. The additional positions and appropriations may be used for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population, and are subject to Legislative Budget Commission (LBC) review and approval.

**Section 14** authorizes the Department of Legal Affairs to expend appropriated funds in certain specific appropriations on the same programs that were funded by the department pursuant to specific appropriations made in general appropriations acts in prior years.

**Section 15** limits the Department of Juvenile Justice's reimbursements for health care services to 110 percent of Medicare allowable rates. There is an exception to allow reimbursement up to 115 percent of Medicare allowable rates for hospitals that reported a negative operating margin for the prior fiscal year.

**Section 16** requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring between July 1, 2015, and June 30, 2017.

**Sections 17 and 18** require that the fee for service of process against the Department of Financial Services or Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

**Section 19** provides that, notwithstanding s. 161.143, F.S., which requires the Department of Environmental Protection to make available at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the three highest-ranked projects on the current year's inlet management project list, for the 2014-2015 fiscal year, the amount allocated for inlet management funding is provided in the General Appropriations Act.

**Section 20** authorizes the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the Department of Environmental Protection for fixed capital outlay projects. The increase in fixed capital outlay budget authority is authorized for funds provided to the state from the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation, the Gulf Coast Restoration Trust Fund related to the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act), or from British Petroleum Corporation (BP) for natural resources damage assessment early restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified.

**Section 21** authorizes the transfer of funds from the Conservation and Recreation Lands Trust Fund to the Save Our Everglades Trust Fund within the Department of Environmental Protection to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013.

**Section 22** provides revenues in the Land Acquisition Trust Fund within the Department of Environmental Protection are authorized to support the Total Maximum Daily Loads program, and authorizes the transfer of funds to the Save Our Everglades Trust Fund to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013.

**Section 23** authorizes the transfer of funds from the Water Management Lands Trust Fund to the Save Our Everglades Trust Fund within the Department of Environmental Protection to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013. Any remaining funds are provided in accordance with the General Appropriations Act.

**Section 24** clarifies that the recurring \$12 million appropriated from the General Revenue Fund and the recurring \$20 million appropriated from the Water Management Lands Trust Fund to the Department of Environmental Protection for the Restoration Strategies Regional Water Quality Plan provided in ch. 2013-59, L.O.F., be deposited into the Save Our Everglades Trust Fund, to support Everglades restoration projects included in the report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin dated November 8, 2013.

**Section 25** amends s. 376.30711, to require: (1) all task assignments, work orders, and contracts for providers under the Petroleum Restoration Program entered into by the Department of Environmental Protection (DEP) on or after July 1, 2013, pursuant to s. 376.30711, ss. 376.3071 and 376.30713, F.S., must be procured through competitive bidding; (2) statements under oath be executed and provided to the DEP concurrently with the execution of task assignments, work orders, or contracts by all owners, responsible parties, and cleanup contractors and subcontractors, that no compensation, remuneration, or gift, of any kind, directly or indirectly, has been solicited, offered, accepted, paid, or received in exchange for designation or employment in connection with the cleanup of an eligible site, except for compensation paid by the DEP to the contractor for the cleanup; (3) statements under oath be executed and provided to the DEP concurrently with the execution of task assignments, work orders, or contracts by all cleanup contractors and subcontractors receiving compensation for cleanup of eligible sites that they have never paid, offered, or provided any compensation in exchange for being designated or hired to do cleanup work, except for compensation for the cleanup work; and (4) any owner, responsible party, or cleanup contractor or subcontractor who falsely executes either of those statements be prohibited from participating in the Petroleum Restoration Program.

**Section 26** requires the Department of Environmental Protection to award \$3,000,000 of grant funds from the Solid Waste Management Trust Fund equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling education, and general solid waste programs.

**Section 27** authorizes the Fish and Wildlife Conservation Commission to pay a bounty for each lionfish captured and destroyed from state or adjacent federal water during lionfish derbies.

**Section 28** permits funding for multi-use trails and related facilities, notwithstanding ss. 339.135(4)(a) and (5)(a), F.S., relating to geographic equity requirements for funding transportation projects.

**Section 29** amends s. 335.065, F.S., authorizing Department of Transportation (DOT) to fund the acquisition and development of multi-use trails intended to establish a statewide integrated connected system of trails.

**Section 30** authorizes the reversion of the unobligated funds appropriated for transportation and economic development projects in Specific Appropriation 1891, ch. 2013-40, L.O.F. For the purposes of this section, unobligated funds does not include funding for projects for which grant agreements have been executed for specific transportation economic development projects.

**Section 31** provides that no state agency may initiate a competitive solicitation, if the completion of such competitive solicitation would: (1) require a change in law; or (2) require a change to the

agency's budget other than a transfer authorized in s. 216.292(2), F.S., unless the initiation of the competitive solicitation is specifically authorized in law, in the General Appropriations Act, or by the Legislative Budget Commission.

**Section 32** authorizes the EOG to transfer funds in the appropriation category "Special Categories-Risk Management Insurance" in the 2014-2015 General Appropriations Act, between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

**Section 33** authorizes the EOG to transfer funds in the appropriation category "Special Categories-Transfer to DMS-Human Resources Services Purchased Per Statewide Contract" in the 2014-2015 General Appropriations Act, between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the DMS for human resources management services.

**Section 34** amends s. 112.24, F.S., to provide that the reassignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate and House appropriations committees. Such actions are deemed approved if neither chair provides written notice of objection within 14 days after the chair's receiving notice of the action pursuant to s. 216.177, F.S. This requirement applies to state employee reassignments regardless of which agency (sending or receiving) is responsible for the pay and benefits of an assigned employee.

**Section 35** maintains legislative salaries at July 1, 2012, level (the 2010 salary levels).

**Sections 36** and **37** amend s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the 2014-2015 General Appropriations Act.

**Section 38** provides that, in order to implement the issuance of new debt authorized in the 2014-2015 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature has determined that the authorization and issuance of debt for the 2014-2015 fiscal year should be implemented and is in the best interest of the state and necessary to address a critical state emergency.

**Section 39** provides that funds appropriated for travel by state employees be limited to travel for activities that are critical to each state agency's mission, prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing, and requires the agency head to consider the use of teleconferencing and electronic communication to meet the needs of the activity before approving travel.

**Section 40** provides that, in order to implement the appropriations authorized in the 2014-2015 General Appropriations Act and notwithstanding s. 216.181(1)(c), F.S., an agency may transfer funds between the data processing appropriation categories and another appropriation category for the purpose of supporting and managing its computer resources until such time as the agency's data processing function is transferred to the SSRC, the NSRC, or the Northwest Regional Data Center.

**Section 41** provides that the Governor is authorized to transfer between agencies funds appropriated in any appropriation category in the 2014-2015 General Appropriations Act used to pay for data processing in the 2014-2015 General Appropriations Act, in order to align the budget authority granted with the utilization rate of each department.

**Section 42** prohibits agencies from transferring funds from a data center appropriation category to a category other than a data center appropriation category, notwithstanding s. 216.292(2)(a), F.S., which authorizes transfers of up to five percent of approved budget between categories.

**Sections 43** and **44** amend s. 110.12315, F.S., to modify copayments consistent with decisions that have been made in the 2014-2015 General Appropriations Act. The DMS is authorized to implement a 90-day supply limit program for certain maintenance drugs, as determined by the department, at retail pharmacies participating in the program if the department determines it to be in the best financial interest of the state.

**Section 45** specifies that no section of this bill shall take effect if the appropriations and proviso to which it relates are vetoed.

**Section 46** provides that a permanent change made by another law to any of the statutes amended by this bill takes precedence over the provisions in this bill.

**Section 47** provides a severability clause.

**Section 48** provides an effective date.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Because SPB 7092 implements provisions of the General Appropriations Act for Fiscal Year 2014-2015, there are no direct fiscal impacts created by this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 110.12315(7)(a), 112.24, 161.143, 216.181, 216.262, 259.032, 335.065, 339.135, 373.59, 375.041, 376.30711, 403.7095, 1002.32, 1011.62, and 1013.64.

This bill creates undesignated sections of Florida Law.

This bill reenacts the following sections of the Florida Statutes: 110.12315(2)(b), 215.32(2)(b), and 624.502.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.